

REMARKS/ARGUMENTS

Claim Amendments

The Applicant has amended claims 1 and 14. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-2, 4-15, and 17-26 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

Claim Rejections – 35 U.S.C. § 103 (a)

Claims 1-2, 4-11, 14-15, 17-22, and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Szienski (UK Patent Application GB 2 366134 A) in view of Muramatsu (US 2001/0012774 A1) and in further view of Toshida et al. (EP 1032230 A2). Though not cited as being used to reject the subject claims, Suzuki is cited on page 4 to supply elements that are missing from the Szienski reference. Even so, the Applicant respectfully traverses the rejection of these claims with regard to all the references used.

As provided in MPEP § 2143, "[t]o establish a prima facie case of obviousness, ... the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The Applicant has amended the independent claims 1 and 14 to clarify the language in general and, specifically, to clarify the language of the elements that are allegedly disclosed by Suzuki. The Applicant believes that the Suzuki reference is mistakenly entered in the argument instead of the Toshida Reference and the Applicant will respond as if the Toshida reference is the reference used by the Examiner.

As stated in the Detailed Action, the Szienski reference fails to disclose the quality of service level provided to the communication device in the network changing in response to said power level calculations. Muramatsu is cited as disclosing quality of service level being changed in response to said power level calculations. Then, Toshida is cited for teaching, based on power supply connections for one of receiving all of said data for teaching terminal equipment identifier and receiving a portion of said data if the voltage is smaller than a threshold voltage.

The Applicant respectfully submits that the Toshiba reference states that if there is an interruption to downloading data, then "the processing is ended." (paragraphs [0022], [0023], [0025]). Processing being ended is described as the battery losing charge to a level below a threshold. Toshiba interrupts (stops) downloading when the charge is below the threshold, but resumes as soon as the battery exceeds the voltage threshold level. The Applicant respectfully submits that the Applicant's present invention does not stop transferring data when the power level is reduced below a certain level. The present invention transfers the amount of data that the power level and the drain rate are capable of transferring. This is very different from Toshiba and the Applicant respectfully asserts that the Toshiba reference does not disclose the limitation of transferring a portion of data and directing the remainder of the data to another address; all based on power level and power drain rate.

Consequently, the Office Action does not factually support a prima facie case of obviousness. The Applicant, therefore, respectfully requests that the rejection of these claims be withdrawn.

Claims 12-13 and 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Szienki (UK Patent Application GB 2 366134 A) in view of Muramatsu (US 2001/0012774 A1) and in further view of Toshiba et al. (EP 1032230 A2) and further in view of Liebenow (US 6459896) The Applicant respectfully traverses the rejection of these claims.

As discussed above, Szienki, Muramatsu, Toshiba and Liebenow do not teach or suggest, based on the power level and drain rate, transferring all of the data to a predetermined location, or transferring a portion of the data and directing a remaining portion of the data to a predetermined address. The addition of Liebenow does not make up the missing elements.

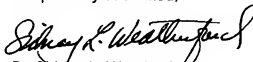
Claims 12-13 and 23-24 depend from amended claims 1 and 14 and recite further limitations in combination with the novel elements of claims 1 and 14. Therefore, the allowance of claims 12-13 and 23-24 is respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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